



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 3535-99
10 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 24 May 99 w/attachment
(2) HQMC MMOA-4 memo dtd 12 Jul 99
(3) HQMC MMPR memo dtd 16 Jul 99
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show the lineal position, date of rank, and effective date in the grade of captain he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 1999 Captain Selection Board, vice the FY 2000 Captain Selection Board.

2. The Board, consisting of Ms. Davies and Messrs. McCulloch and Molzahn, reviewed Petitioner's allegations of error and injustice on 5 August 1999, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner had a prior case (docket number 486-99) before this Board. A copy of his decisional document is found at Tab A to enclosure (1). After he had failed before the FY 1999 Captain Selection Board, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) directed that one fitness report be removed from his record. His failure of selection was later stricken by this Board. He appeared before the FY 2000 Captain Selection Board with a corrected record and was selected for promotion. He was promoted to captain with a date of rank and effective date of 1 August 1999.

c. In correspondence attached as enclosure (2), the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), which has cognizance over the subject matter of this case, has commented to the effect that Petitioner's request has merit and warrants favorable action.

d. In correspondence attached as enclosure (3), the HQMC Promotion Branch (MMPR) has advised that had Petitioner been selected by the FY 1999 Captain Selection Board, he would have been assigned a date of rank and effective date of 1 July 1998.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of captain as 1 July 1998; and that his lineal precedence be adjusted accordingly.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

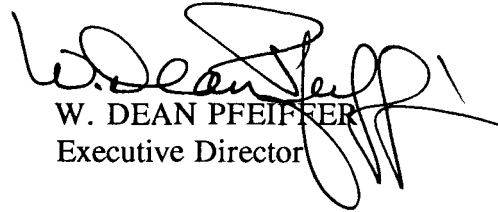
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

3535 99

IN REPLY REFER TO:

1600
MMAA-4
12 Jul 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]

Ref: (a) MMER Request for Advisory Opinion in the case of
First Lieutenant [REDACTED]
of 1 Jul 99

(b) MMAA4 Memorandum for the Executive Director, BCNR of
20 Jan 99

1. Recommend approval of First Lieutenant [REDACTED] request for
backdating his date of rank.

2. Per reference (a), we reviewed First Lieutenant [REDACTED] record
and petition. First Lieutenant [REDACTED] failed selection on the FY99
USMC Captain Selection Board. He successfully petitioned the
Performance Evaluation Review Board for removal of the Change of
Reporting Senior fitness report of 970101 to 970731. The Board
for Correction of Naval Records approved removal of his failure of
selection. He was subsequently selected for promotion from in
zone on the FY00 board.

3. Our comment in reference (b) recommending approval of First
Lieutenant [REDACTED] request to remove his failure of selection
remains germane. Therefore, we recommend approval of his request
for backdating his date of rank.

4. Point of contact is [REDACTED] [REDACTED]

[REDACTED]
Lieutenant Colonel, U. S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignments Branch
Personnel Management Division

3535-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:
1412/1
MMPR
16 Jul 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF FIRST LIEUTENANT [REDACTED]
[REDACTED] USMC

1. If First Lieutenant [REDACTED]'s request for backdating is approved, his date of rank and effective date will be 1 July 1998. This is the date of rank he would have received upon selection from the FY99 USMC Captain Selection Board.

2. Point of contact is [REDACTED]

[REDACTED]
for By direction